

only to the “provision” or “offering” of telecommunications. Without regard to whether “telecommunications” is taking place in the transmission of computer-to-computer IP telephony, the ISP does not appear to be “providing” telecommunications to its subscribers, and thus it does not appear to be acting as a common carrier. However, as noted above, the Commission has indicated that because providers of telephone-to-telephone IP-telephony provide their users with voice transmission only, it would appear that they are providing telecommunications services. The classification of providers of phone-to-phone IP-telephony as providers of telecommunications services is important as such classification could result, *inter alia*, in the imposition of regulated access charges on IP providers.

These unclear definitional distinctions serve to illustrate the point that the Commission must act to define and classify whether it regards IP-telephony as a telecommunications services or as an enhanced or informational service, and what regulatory distinctions, if any, exist for computer-to-computer IP-telephony versus phone-to-phone IP-telephony. It is only by providing definitional clarity that the Commission can create the regulatory certainty necessary for carriers to deploy advanced telecommunications services such as IP-telephony to the American public, in fulfillment of the mandates of Section 706.

B. Access Charge Reform.

Perhaps the biggest problem that the Commission has encountered with respect to access charges is the blurring of the lines between basic and enhanced services – *i.e.* voice and data. Long distance voice traffic is beginning to be transported over enhanced services networks such as the Internet. As voice over the Internet has flourished, pressure has been applied to the Commission to classify these providers as “telecommunications carriers” and hence require these carriers to pay access charges. As noted previously, while the Commission recently concluded

³¹ *Id.* at ¶ 89.

that phone-to-phone calls using the Internet or a private intranet to transport the long distance portion of the call bear the characteristics of a "telecommunication service," the Commission did not go so far as to conclude that providers of such service are telecommunications carriers. This conclusion undoubtedly reflects the strong effort by the Commission to avoid regulation of the Internet and related activities.

MGC believes that the deployment of advanced telecommunications services such as IP-telephony has a direct bearing on the existing access charge structure. MGC recommends that the Commission issue rules specifically exempting the imposition of access charges on providers of IP-telephony, as access charges should be based on the cost of service, and not on some artificially created subsidy. At this early stage in the development of IP-telephony, MGC believes that a competitive marketplace is the best medium to resolve this issue. In addition to the proliferation of new services such as IP-telephony, however, there are other issues that necessitate a review of the existing access charge system. Some of these ideas and the history behind them are advanced below.

1. Access Charges Should Represent the Cost of Service Not An Arbitrary, Inflated, Subsidized Rate.

One of the more contentious issues existing in today's telephony environment is access charges. Currently, a Tier 1 LEC typically charges between two and three cents per minute for use of its network either to originate or terminate a long distance call, although LECs have negotiated termination amounts of tenths of a cent with many CLECs. All carriers acknowledge that long distance termination rates do not reflect the LEC's cost of providing the service.

The history of these charges is rooted in the breakup of AT&T. With the creation of the seven (7) baby Bells in 1984, access charges were seen as a way to allow the local exchange carrier to be the carrier of last resort, *i.e.* to supply service to all areas of their jurisdiction,

including remote and rural locations. The introduction of these charges also reflected the business relationship that existed between carriers. Long distance carriers needed access to the LEC's network to complete their calls as LECs owned and controlled access to "the last mile," while interexchange carriers ("IXCs") had the ability to transport the call across state lines. Access charges compensated LECs for this access.

At that time, there was no confusion regarding a carrier's status. Today, however, a carrier's status is not so clearly defined. Carriers can be both local and long distance providers. Long distance access charges represent a subsidy for the LECs, as these charges are one of the largest cost factors for IXCs in delivering service, amounting to as much as 40% of the cost of a call. With the exception of the LECs, all carriers have agreed that it would be best to substantially reduce, if not eliminate these charges. Clearly, access to a carrier's network has a cost, but this cost should be reflected in a rate that represents the cost of the service, and not an inflated rate driven by subsidized political wishes. However, due in large part to LEC resistance, initial attempts to reform these charges have been slow and have not achieved a great deal of success, and the PICC effort has been confusing and difficult to administer.

a) Access Charges Negotiated between LECs and CLECs for Local Service Interconnection Reflect the True Cost of LEC Delivery Costs

Since the passage of the 1996 Act, local termination agreements have been required. In contrast to long distance termination rates, most local service interconnection agreements call for termination rates well under one (1) cent per minute. Typically, this rate is based on cost studies submitted by the LEC. CLECs are given the same rate for usage terminated on their network.³²

³² Generally, there is no negotiation of this rate, no ability to take the CLEC's network cost into account, despite the fact that, clearly in these early stages, a CLEC's network is more expensive than the incumbent's. This is because, at a minimum, the CLEC is using fully

A number of these interconnection agreements call for 'bill and keep' settlements, dictated by LECs at the time the interconnection agreements are negotiated. (The other type of settlement arrangement is known as transaction billing.) This type of settlement approach reflects the assumption that there is traffic balance in networks at the local level. If the traffic is not balanced, settlement is usually in tenths of a cent per minute. In instances where local traffic is tracked and billed by each side, rates are less than one (1) cent. These agreements reflect the LEC's true cost of delivery of traffic on its network, and not the inflated long distance rates currently charged today.

Some examples of such local termination rates are:

Bill and Keep:

- | | |
|-----------------|---|
| Sprint: | Bill & Keep. But if determined to be out of balance, traffic is charged at \$.002/minute. |
| PacBell: | True Bill & Keep with no balance provision. |
| GTE: | If there is more than a 15% out of balance, traffic is charged \$.0036 per minute |

Direct Charge:

Ameritech -\$.009 per minute

Bell South - \$.004 per minute

2. Efforts to Evade Long Distance Access Charges Are Increasing – the Commission Must Act to Encourage Competition by Elimination of Terminating Switched Access Charges.

Today, long distance access charges are under attack by the market. This attack has come in the form of delivery of voice traffic via enhanced services ("VoIP"). As previously explained, long distance voice traffic now may be transported over enhanced services networks

costed unbundled network elements ("UNEs") such as local loops, without the offsetting

such as the Internet. As voice over the Internet has flourished, the Commission has been asked to classify these providers as "telecommunications carriers" and, hence, require these carriers to pay the regulated charges paid by traditional IXC's.

MGC believes that the Commission must level the playing field for all competitors without inhibiting competition. This current arbitrage of long distance switched access rates must be addressed. While all industry players agree that to endorse the current method would not further competition, the elimination of all access charges would not be acceptable to the LECs.

In order to more fully understand the existing system, it is necessary to evaluate the two distinctive forms of access charges, terminating and originating. Termination charges are anti-competitive. Such charges perpetuate the monopoly currently under attack by the Commission, prohibiting competitive access to the last mile at a reasonable cost. The elimination of terminating switched access, however, eradicates this 'financial' barrier, allowing all carriers to equally access end user customers nationwide. Additionally, eliminating terminating access charges eliminates one-half of the current billing and tracking activity required to bill and collect terminating switched access. This represents a substantial reduction in administrative overhead and costs.

But the question remains -- how should the LEC be compensated for carriers using its network to deliver calls? The answer is to increase the amount of originating access charges commensurately. Under such a system, users do not pay more and LECs continue to receive the same level of compensation. Moreover, the increased originating charges will further encourage competitors to create their own local network either through collocation or building network.

benefit of subsidies available to the incumbent.

This trend to increase the amount of originating access charges while eliminating terminating access charges already is well under way. According to Kimberly Russo in the September issue of *Telecommunications*, "Bell Atlantic has filed tariffs eliminating its [carrier common line] charges to IXCs for long-distance calls terminating at Bell Atlantic customers' premises. At the same time, Bell Atlantic has doubled the per-minute *originating* interstate calls on Bell Atlantic's network." Ms. Russo goes on to state, "Similarly, BellSouth reduced its per-minute *terminating* access charge by 91%, but increased its per-minute *originating* access charge by 41%."³³

This trend reflects a win-win for all competitors. It lessens the burden of LECs to track voice calls delivered by enhanced services, yet allows them to maintain existing revenues. Simultaneously, it encourages competitors such as MGC to continue to construct their own networks and add customers, thereby eliminating all access charges.

3. The ILEC Requirement that CLECs Conform to Complicated Accounting Systems to Receive Payment for Mutually Exchanged Traffic Is an Unreasonable Obstacle to Competition.

In conjunction with the elimination of terminating switched access charges, the Commission should also take a bold step to eliminate existing LEC requirements for tracking and billing local service termination. As previously mentioned, there are two types of local billing arrangements: (a) bill-and-keep and (b) transactional billing (*i.e.* per transaction charges based on minutes of usage). MGC recommends that the Commission require/promote bill-and-keep arrangements in order to anticipate the coming technology advances, particularly with respect to IP-telephony.

³³

Kimberly Russo, TELECOMMUNICATIONS, Sept. 1998.
Page 54

Bill-and-keep arrangements have arisen because network traffic studies have shown there is balance in most networks, *i.e.* that inbound and outbound calls for each user/line are equal.³⁴ Because of this balance, bill-and-keep largely has been understood to be a more economical way of dealing with traffic between networks.

The second method is billing for each transaction – transactional billing. This is an expensive method, as a carrier is required to track every transaction, account for it and then bill. Additionally, a carrier has to keep track of the minutes coming from the incumbent. One could argue this is also required with bill-and-keep. But the work and tracking requirements are substantially less without billing.

This second method greatly favors the incumbent. The ILEC has had the time to develop the network and its billing systems. Moreover, given their size and near monopoly control, the ILEC has the ability to dictate the rates and policies of this arrangement. Bill and keep provides certain amounts of relief from this task, but also requires, in most instances, that newcomers record the activity on their network. This history is necessary to provide data for true-ups, which are part of the bill-and-keep arrangement. While this exercise is measurably less burdensome, it still represents a substantial undertaking. The best arrangement is to provide for a pure bill and keep arrangement for all carriers.

With the coming evolution/revolution of Internet protocol ("IP") transport, traditional traffic measurement of minutes of use will become outdated. Packets of data will be the mode of transport. These packets will be routed. They will not be traveling through relatively expensive dedicated circuits. The cost of moving traffic will decline dramatically. Given this migration in technology, outdated forms of billing on an absolute basis per minute of use or a true-up bill-

³⁴ Exceptions include the current ISP arrangements, in which a CLEC provides service to an ISP that generates most of its traffic from customers on the incumbent's network who

and-keep method will be expensive old remnants from the outdated circuit-switched environments. These billing methods, if allowed to continue, will favor incumbent providers who have a vested interest in maintaining these expensive systems which will require new entrants to expend large financial and human resources to protect their interest against their larger foes.

One exception in local service interconnection billing which has favored the CLECs has been the arbitrage created by ISPs on the CLECs' networks. This relationship creates an imbalance of inbound calls from the ILEC's customers to the CLEC's network. This is probably one of the only situations where local traffic is out of balance and where it makes economic sense to track traffic between CLECs and ILECs.

Traffic is moving both ways -- to and from the end user to its destination in a dedicated circuit. However, with a circuit-based network, where the traffic circuit terminates determines who is charged for call. In environments with per minute charges, where ISP users are on net for extended periods of time, the "arbitrage" favors the terminating carrier. However, traffic is moving in both directions "inside" the circuit. There is still balance. Thus, the adoption of true bill and keep arrangements will facilitate the rapid deployment of this efficient, new technology.

VI. CONCLUSION

If the Commission establishes precise, uniform national performance standards, to which ILECs must adhere in the provision of local loops, collocation arrangements and in providing access to their operational support systems, permits CLECs to collocate switching equipment for the provision of all telecommunications services, and creates a regulatory framework that

terminate their calls on the CLEC's network.

encourages the deployment of enhanced telecommunications services, including IP-telephony, CLECs like MGC will be even more successful than they are today.

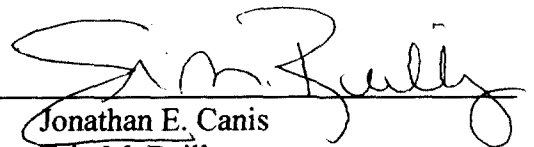
Furthermore, if the Commission adopts such national rules, CLECs such as MGC will be able to deploy more efficient networks, which consequently will enable them to be in a position to bring the fruits of the 1996 Act directly to the long-forgotten residential customer, thus ensuring that the American consumer ultimately will benefit through access to advanced communications applications at affordable prices.

Respectfully submitted,

MGC Communications, Inc.

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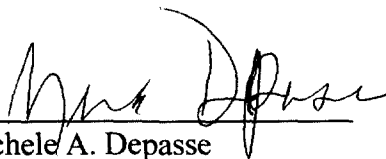
Counsel for
MGC COMMUNICATIONS, INC.

CERTIFICATE OF SERVICE

I, Michele A. DePasse, hereby certify that I have served a copy of the "Comments Of MGC Communications, Inc." this 25th day of September, 1998, upon the following parties *via* hand delivery:

International Transcription Service, Inc.
1231 20th Street, N.W.
Washington, D.C. 20036

Janice M. Myles
Federal Communications Commission
Common Carrier Bureau
Room 544
1919 M Street, N.W.
Washington, D.C. 20554



Michele A. Depasse

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Deployment of Wireline)
Services Offering Advanced)
Telecommunications Capability)
)
)
)
)

CC Docket No. 98-147

**DECLARATION OF NIELD MONTGOMERY IN SUPPORT
OF COMMENTS OF MGC COMMUNICATIONS, INC.**

1. This Declaration is given in support of the Comments of MGC Communications, Inc. ("MGC") in response to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned docket.
2. I have personal knowledge of the facts set forth in this Declaration and how those facts relate to the issues raised in the NPRM.
3. I am President and Chief Executive Officer of MGC. I have been employed in this capacity since MGC's incorporation in 1996.
4. MGC utilizes a switch-based network with collocated remote technology. The preferred type of remote technology presently deployed by MGC is a collection device known as the "RSC." RSC is an acronym for Remote Switching Center. The RSC, as used in the MGC network, can be deployed with the switching function disabled. With the switching function disabled, it does not act as a switch but as a collection device where unbundled loops may be aggregated and transported to the host switch.

5. A switch-disabled RSC, operates as an Access Node, a piece of equipment which Ameritech permits to be collocated. Although both devices perform the same function, the Access Node is inferior in that it is less efficient to deploy. First, the Access Node takes more space per line served than the RSC. This is particularly significant in central offices with limited space availability. Shortages in available collocation space may ultimately affect the competitive alternatives available to consumers. Therefore, this finite space should be used in the most efficient manner. Second, the Access Node uses more power. Third, having to buy the less-efficient Access Node drives the per line cost of providing phone service higher. The Access Node is substantially more costly on a per line basis, approximately \$200 per line compared to \$135 per line when deploying an RSC. The public benefits most when utility providers can offer the most technically and cost-efficient service.
6. MGC entered into an Interconnection Agreement ("Agreement") with Ameritech under Sections 251 and 252 of the Telecommunications Act of 1996 ("1996 Act") in May 1997. The Agreement enabled MGC to collocate equipment not capable of switching. Prior to contracting with Ameritech, MGC negotiated an Interconnection Agreement with Illinois Sprint ("Sprint") which included provisions for collocation of RSCs so long as Sprint would be provided certification that the switching ability of the equipment had been disabled.
7. Subsequently, when Ameritech purchased the assets of Sprint, it refused to approve the Sprint Agreement and refused to authorize collocation of RSCs.

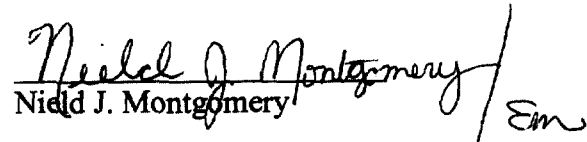
8. MGC advised Ameritech that its equipment manufacturer Nortel agreed to disable the switching functionality of the RSC prior to delivery to MGC. Thereafter, MGC submitted collocation applications to Ameritech including collocation of an RSC. MGC reiterated the agreement to functionally disable the RSC. In addition, MGC offered to allow Ameritech (a) to monitor the RSC to ensure it was not being used for switching and (b) to recover financial penalties from MGC if MGC uses the device contrary to its representations.
9. Despite these assurances, Ameritech continued to reject unequivocally MGC's requests to collocate RSCs.
10. After more than six months of rejection from Ameritech, MGC was about to file a Complaint with the Commission when MGC was asked to refrain from filing for another sixty (60) days to attempt to resolve the issue.
11. As a result, in December 1997, Nield Montgomery, President of MGC and Neal Cox, President of Ameritech discussed MGC's proposal to protect Ameritech against any possibility that the RSC could be used for switching. Further, MGC advised Ameritech that other ILECs with which MGC dealt (namely, Pacific Bell, Bell South, GTE and Sprint) had all agreed to similar provisions; no other ILEC has adopted the position of Ameritech. Nevertheless, Ameritech rejected the use of the RSC.
12. Even after MGC's best efforts to resolve this dispute at all levels of management, Ameritech never changed its position of unequivocal rejection. Ameritech never offered or even suggested it would consider collocation under any circumstance. MGC was left with no choice but to file a complaint with the Illinois Commerce

Commission in March 1998, nearly a year after the dispute began. Continued efforts to resolve the matter through negotiation continued. Finally, it was not until August 1998 that Ameritech's technical staff began to evaluate whether MGC's request to collocate RSCs could be accommodated in some way.

13. With the less-efficient Access Nodes in place, MGC is about to embark on its competitive service to consumers in Illinois. At present, six months after filing its complaint and a year and one-half after the dispute began, it is not yet resolved.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on September 24, 1998 at _____.


Nield J. Montgomery

In the Matter of)
Deployment of Wireline)
Services Offering Advanced)
Telecommunications Capability)
)
)
)

**DECLARATION OF DAVID RAHM IN SUPPORT
OF COMMENTS OF MGC COMMUNICATIONS, INC.**

- 1

collocated with BellSouth, Ameritech, Sprint, Pacific Bell and GTE in the states of Georgia, Illinois, Nevada and California.

5. MGC understands the ILECs will contest specific language of the Act and subsequent directives of the FCC and the state regulatory authorities. MGC understands that certain language in the Act and subsequent directives are subject to honest disagreements about meaning until final adjudication occurs. MGC does not seek to mandate positions that put an ILEC in an inferior position, but only seeks to achieve true parity. MGC does not propose new regulations to provide the CLECs with a competitive advantage, but proposes rules to ensure effective implementation of the clear meaning of the Act and subsequent rules and directives. This would allow the CLECs an opportunity to compete on a more level playing field.
6. MGC believes that many of the impediments to effective competition noted herein can be attributed to a lack of enforcement procedures to ensure the ILECs meet the goals of creating parity in provisioning of services in order to foster effective local competition. Without creating such enforcement procedures, and corresponding punitive sanctions for failure to perform (particularly when the failure is attributed to malevolence on the part of either party), the benefits of competition will not be timely realized and maximized.

The problems faced by MGC vary depending upon the LEC. However, there are five general problems with collocation that are virtually universal. These problems include (a) price of collocation, (b) interval for collocation cage build-

out, (c) lack of information about the collocation sites, (d) access and artificial installation delay, and (e) inflexibility of ILEC's.

Price of Collocation

7. To reach the local loop, MGC must collocate in the ILEC's central offices ("COs"). Some CLECs have elected to concentrate on large business customers. These CLECs build or lease fiber networks directly for use in large buildings or similar customer premises. They offer service to customers without the need to collocate equipment with the ILEC.
8. MGC's target market is small business and residential customers. It is not economic to build a parallel fiber network to reach small businesses or residences. The only efficient way to reach these customers is to collocate in the ILEC COs. Collocation, at the heart of MGC's residential and small business plan, is consistent with the goals of the Telecommunications Act of 1996 (the "Act").
9. To date, MGC has experienced many problems in attempting to collocate with ILECs. The paramount problem is the cost of collocation, both recurring and non-recurring. Exhibit 1 attached to this document is a worksheet that shows the non-recurring and recurring expenses for each collocation space currently in service with MGC. Approximately fifty-five collocations (both physical and virtual) are in service as of September 15, 1998. MGC plans to install approximately two hundred collocations in 1998, and at least as many in 1999.
 - a. Non-recurring Costs.
 - i. Application Fee. Most ILECs charge an application fee, which ranges from \$2,500 to \$3,850 per site. ILECs contend that this covers the cost of

an engineering study to determine available collocation space. However, a CLEC must pay this charge even if the ILEC has already identified collocation space, even if collocation cages are already built and awaiting occupancy.

- ii. Engineering Fee. Most ILECs charge a space-engineering fee, which ranges from \$4,000 to \$6,500. This is the charge to cover the ILEC's engineering fees for laying out the collocation space, including assuring the site has adequate lights, power, HVAC and fire protection. While MGC has diligently paid this fee, there have been several occasions where MGC went to accept a cage, only to determine that the ILEC had not provisioned adequate power, HVAC, or even lights into the cage. Again, this fee is charged even where collocation cages have been built and await occupancy.

- iii. Build-Out. The largest fee is for space build-out. The average space build-out charge ranges from approximately \$19,000 (Ameritech) to as much as \$100,000 (GTE, BellSouth). A median charge would be approximately \$60,000, although MGC has received quotes of up to \$600,000 (i.e., \$6,000 per square foot!) for one cage. The typical collocation cage is a chain-link fenced 10 x 10 enclosure. The space includes power, HVAC, lighting, and, in some cases, fire protection. On average, MGC pays \$600 per square foot for collocation space preparation.

MGC builds its own switch sites for installation of its main switch. On average, MGC has acquired the land, built or renovated a building, installed power, lights, HVAC, fire protection, generators, and run diverse conduit routes to the nearest ILEC CO for approximately \$800,000. Including both the on-site and off-site work, MGC has spent an average of \$160.00 per square foot to prepare these buildings.

It is significant to note that in the above-referenced example of MGC building its own facility, MGC starts with a building which was not designed for telecommunications use and totally renovates the facility at a cost of approximately \$160 per square foot. In contrast, the ILEC starts with a CO specifically designed for telecommunications. The CO already has sufficient power, HVAC, fire protection, lighting and other necessities. In most cases, the area selected for use as a CLEC collocation cage already has sufficient power, HVAC, fire protection and lighting. In some cases, the ILEC selects space that requires extensive remodeling or the extension of necessary infrastructure in order to create collocation cages. To charge as much as \$600 per square foot merely to extend infrastructure, when MGC can build an entirely new facility for less than one-third of that cost, is unconscionable and anti-competitive.

b. Recurring Costs.

- i. Floor Space. The ILEC charges MGC for floor space lease, power and cross-connect charges on a monthly basis. The floor space charges range from \$6.00 to \$12.00 per square foot per month. MGC has frequently

sought rental space in metropolitan areas for switch sites or office space for MGC personnel. MGC has always acquired such space for much less than two dollars per square foot. MGC operates two switches in the Los Angeles metropolitan area, and rents off-site office space. To date, we have never seen space quoted above \$2.00 per square foot. For the ILEC to charge an average of \$9.00 per square foot for collocation space is anti-competitive.

- ii. Power. The ILEC also charges MGC for power on a monthly basis. This charge ranges from \$6.00 to \$11.00 per fused ampere. However, all of the ILECs require MGC to acquire power in increments of 40, 80 or 100 amps. This artificially drives up the already exorbitant cost of power by requiring MGC to lease more power than it actually uses. Each ILEC charges MGC on the amount of power fused, regardless of the actual draw of the equipment.

In addition to artificially increasing the billable amperage, the ILECs charge outrageous rates per ampere of power. MGC pays an average of \$8.50 per fused amp per month, despite the fact that the bills we receive directly from the electric company for our host switch sites indicate a per amp charge of as much as six times less than the ILEC charge.

- iii. Cross-Connects. Finally, the ILEC charges MGC for cross-connecting DS-0, DS-1 and DS-1 cable and fiber to its equipment (including POTS Bays, DSX Panels, and Fiber Distribution Frames). Some ILECs require

MGC to pay a monthly fee merely for cross-connecting to meet forecasted use, even though the facility is not yet in use. This is a requirement that is not imposed on the ILEC and is clearly discriminatory. The ILECs build their transport facilities based upon anticipated use. They forecast and build accordingly. They add new DSX Panels, Fiber Distribution Frames and additional transport in anticipation of future use, not on a real time basis. However, some ILECs require MGC to forecast its need, build according to the forecast, and pay for cross-connects not yet in service.

Space Construction Delay Intervals.

10. The process for ordering and provisioning collocation space is very detailed and formalistic. First, MGC requests collocation space with an application and payment of an application fee. Then, the ILEC advises MGC of a delay interval (usually thirty working days) to "determine space availability." Generally, the ILEC takes the entire response period to respond, even though, in most cases, there are existing cages built or planned.
11. One ILEC, BellSouth, has unilaterally decided that when it receives more than three applications from one CLEC, or has more than a certain number of pending applications, it can delay its already slow response by "a negotiated interval."
12. Upon receipt of a favorable response from the ILEC, MGC accepts the space with another application and payment of one-half of the construction build-out fee. Upon receipt of this payment, the ILEC will commence to "build out" the space. Of course, in many cases, collocation cages have already been built and are awaiting occupancy. However, the ILEC will not provide an already built cage

immediately, MGC must still wait the standard delay interval. The ILECs claim that to give MGC a cage before the stated construction interval would not meet the requirement of parity to other CLECs. The ILECs do not build space for themselves and then wait one hundred twenty (120) days to occupy it.

13. Construction intervals range from ninety (90) to one hundred eighty (180) days. Despite this long construction interval, the ILECs are frequently late in delivering the cage. The worst offenders have been GTE and BellSouth. For example, BellSouth in Florida claims it must obtain permits to build out collocation cages. No other ILEC, including BellSouth in Georgia, makes a similar claim. The Florida Public Service Commission has mandated that collocation cages be built within ninety days. Upon receipt of a permit, BellSouth does build the cage within ninety days. However, MGC applied for nineteen collocation cages in Fort Lauderdale in April, 1998. To date, BellSouth claims they have obtained permits in six offices over five months. MGC is scheduled to receive its first collocation cages from BellSouth in Florida in late-September.
14. MGC held periodic meetings with BellSouth in Georgia to determine collocation cage status. This was helpful in allowing MGC to plan its installation schedules and order transport. Nevertheless, BellSouth unilaterally notified MGC that it was going to be late in certain cages. MGC had no recourse, no right to inspect the progress of the construction, and no way to appeal the delay. BellSouth in Florida refuses to hold periodic meetings to advise MGC of the status of permitting and construction. The CLECs need the ability to know the status of

the cage construction and the right to periodically inspect the cage for progress and suitability of work.

15. Alternately, the CLEC needs the right to build out its collocation cages. MGC is confident that it could build its own cages far faster and for far less money than charged by the ILEC.
16. MGC's experience with GTE is similar to BellSouth. GTE is also frequently late in provisioning its collocation cages. It also unilaterally notifies MGC that a cage will be late, with no mechanism for MGC to appeal the delay or to complete the work itself. GTE has consistently provided MGC with cages that are not properly prepared. In effect, GTE substantially interferes with MGC's collocation by utilizing a variety of delaying methods. For example, GTE has represented that cages are "complete." Notwithstanding GTE's claim of completeness, MGC has discovered serious defects at the cage acceptance meeting. Examples of such defects include no tile placed on the floor; improperly installed and tested exterior entrance card key system preventing MGC access to the building; wiring improperly run through the mesh of the cage wall instead of in cable troughs; no power provisioned to the cage; and even a cage with no lights.

Lack of Information about Collocation Space

17. MGC selects potential markets after a comprehensive review of the economics of entering a market. The factors considered include:
 - the retail prices charged by the ILEC
 - the UNE rates charged by the ILEC(including loops, transport and recurring collocation costs)